

AMENDED IN SENATE JUNE 20, 2001

AMENDED IN ASSEMBLY MAY 10, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

## ASSEMBLY BILL

**No. 874**

**Introduced by Assembly Member Horton**

February 22, 2001

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An act to amend Sections 12209, 17053.57, and 23657 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

### LEGISLATIVE COUNSEL'S DIGEST

AB 874, as amended, Horton. Insurance taxation: credit.

Existing insurance tax law requires every insurer, as defined, doing business in this state, to annually pay a tax on gross premiums, as specified, at the rates and subject to the deductions provided by law. Except as otherwise provided, the rate of tax to be applied to the basis of the annual tax in respect to each year is 2.35%. Existing *insurance tax law allows a credit, and the Personal Income Tax Law and the Bank and Corporation Tax Law, authorize, until January 1, 2002, against that tax on the gross premiums of insurers a credit* in an amount equal to 20% of a qualified deposit, as defined, made into a community development financial institution, as defined.

The bill would extend the operation of the ~~credit~~ *credits* until January 1, 2005, and would modify the definition of a community development financial institution to include an institution that has affordable low-income housing as its primary mission.

~~The Bank and Corporation Tax Law authorizes various credits against the taxes imposed by that law, including a credit in an amount equal to 20% of a qualified deposit, as defined, made into a community development financial institution, as defined.~~

~~This bill would extend the operation of the credit until January 1, 2005, and would modify the definition of a community development financial institution to include an institution that has affordable low-income housing as its primary mission.~~

~~This bill would take effect immediately as a tax levy.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.~~

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 12209 of the Revenue and Taxation  
2 Code is amended to read:

3 12209. (a) For each year beginning on or after January 1,  
4 1999, and before January 1, 2005, there shall be allowed as a credit  
5 against the amount of tax, as defined in Section 28 of Article XIII  
6 of the California Constitution, an amount equal to 20 percent of the  
7 amount of each qualified deposit made by a taxpayer during the  
8 year into a community development financial institution.

9 (b) For purposes of determining any tax that may be imposed  
10 under Section 685 of the Insurance Code on a taxpayer not  
11 organized under the laws of this state, the amount of the credit  
12 allowed by subdivision (a) shall be treated as a tax paid under  
13 Section 12201 or Section 28 of Article XIII of the California  
14 Constitution.

15 (c) Notwithstanding any other provision of this part, no credit  
16 is allowed under this section unless the California Organized  
17 Investment Network of the Department of Insurance, or its  
18 successor, certifies that the deposit described in subdivision (a)  
19 qualifies for the credit under this section and certifies the total  
20 amount of the credit allocated to the taxpayer pursuant to this  
21 section. The aggregate amount of qualified deposits made by all  
22 taxpayers pursuant to this section, Section 17053.57, and Section  
23 23657 shall not exceed ten million dollars (\$10,000,000) for each  
24 calendar year.

25 (d) The community development financial institution shall do  
26 all of the following:



1 (1) Apply to the California Organized Investment Network, or  
2 its successor, for certification of its status as a community  
3 development financial institution.

4 (2) Apply to the California Organized Investment Network, or  
5 its successor, on behalf of the taxpayer for certification of the  
6 credit amount allocated to the taxpayer prior to accepting any  
7 qualified deposit from the taxpayer.

8 (3) Transmit to the taxpayer and the California Organized  
9 Investment Network, or its successor, certification that a qualified  
10 deposit has been accepted, the amount of the deposit or equity  
11 investment, and the amount of the credit to which the taxpayer is  
12 entitled, and retain a copy of the certification.

13 (4) Obtain the taxpayer's California company identification  
14 number for tax administration purposes and provide this  
15 information to the California Organized Investment Network, or  
16 its successor, with the transmittal required in paragraph (3).

17 (5) Provide an annual listing to the board, in the form and  
18 manner agreed upon by the board and the California Organized  
19 Investment Network, or its successor, of the names and taxpayer's  
20 California company identification numbers of any taxpayer who  
21 makes any withdrawal or partial withdrawal of a qualified deposit  
22 before the expiration of 60 months from the date of the qualified  
23 deposit.

24 (e) The California Organized Investment Network, or any  
25 successor thereof, shall do all of the following:

26 (1) Accept applications for certification from financial  
27 institutions and issue certificates that the applicant is a community  
28 development financial institution qualified to receive qualified  
29 deposits.

30 (2) Accept applications for certification from any community  
31 development financial institution on behalf of the taxpayer and  
32 issue certificates to taxpayers in an aggregate amount that may not  
33 exceed the limit specified in subdivision (c). The certificate shall  
34 include the amount eligible to be made as a deposit or equity  
35 investment that qualifies for the credit and the total amount of the  
36 credit to which the taxpayer is entitled for the year. Certificates  
37 shall be issued in the order that the applications are received.

38 (3) Provide an annual listing to the board, in the form or manner  
39 agreed upon by the board and the California Organized Investment  
40 Network, or its successor, of the taxpayers who were issued

1 certificates, their respective National Association of Insurance  
2 Commissioners company number and employer's tax  
3 identification number, the amount of the qualified deposit made by  
4 each taxpayer, and the total amount of qualified deposits.

5 (f) For purposes of this section:

6 (1) "Qualified deposit" means a deposit that does not earn  
7 interest, or an equity investment, that is equal to or greater than  
8 fifty thousand dollars (\$50,000) and is made for a minimum  
9 duration of 60 months.

10 (2) "Community development financial institution" means a  
11 private financial institution located in this state that is certified by  
12 the California Organized Investment Network, or its successor,  
13 that has community development or affordable low-income  
14 housing as its primary mission, and that lends in urban, rural, or  
15 reservation-based communities in this state. A community  
16 development financial institution may include a community  
17 development bank, a community development loan fund, a  
18 community development credit union, a microenterprise fund, a  
19 community development corporation-based lender, and a  
20 community development venture fund.

21 (g) (1) If a qualified deposit is withdrawn before the end of the  
22 60th month and not redeposited or reinvested in another  
23 community development financial institution within 60 days,  
24 there shall be added to the "tax," as defined in Section 28 of  
25 Article XIII of the California Constitution, for the year in which  
26 the withdrawal occurs, the entire amount of any credit previously  
27 allowed under this section.

28 (2) If a qualified deposit is reduced before the end of the 60th  
29 month, but not below fifty thousand dollars (\$50,000), there shall  
30 be added to the "tax," as defined in Section 28 of Article XIII of  
31 the California Constitution, for the income year in which the  
32 reduction occurs, an amount equal to 20 percent of the total  
33 reduction for the year.

34 (h) In the case where the credit allowed by this section exceeds  
35 the "tax," the excess may be carried over to reduce the "tax" for  
36 the next four years, or until the credit has been exhausted,  
37 whichever occurs first.

38 (i) This section shall remain in effect only until December 31,  
39 2005, and as of that date is repealed. However, any unused credit

1 may continue to be carried forward, as provided in subdivision (h),  
2 until the credit is exhausted.

3 (j) The amendments made to this section by the act adding this  
4 subdivision shall apply only to taxable years beginning on or after  
5 January 1, 2001.

6 SEC. 2. *Section 17053.57 of the Revenue and Taxation Code*  
7 *is amended to read:*

8 17053.57. (a) For each taxable year beginning on or after  
9 January 1, 1997, and before January 1, ~~2002~~ 2005, there shall be  
10 allowed as a credit against the amount of “net tax,” as defined in  
11 Section 17039, an amount equal to 20 percent of the amount of  
12 each qualified deposit made by a taxpayer during the taxable year  
13 into a community development financial institution.

14 (b) Notwithstanding any other provision of this part, no credit  
15 ~~shall be~~ *is* allowed under this section unless the California  
16 Organized Investment Network of the Department of Insurance,  
17 or its successor, certifies that the deposit described in subdivision  
18 (a) qualifies for the credit under this section and certifies the total  
19 amount of the credit allocated to the taxpayer pursuant to this  
20 section. The aggregate amount of qualified deposits made by all  
21 taxpayers pursuant to this section and Section 23657 shall not  
22 exceed ten million dollars (\$10,000,000) for each calendar year.

23 (c) The Community Development Financial Institution shall  
24 do all of the following:

25 (1) Apply to the California Organized Investment Network, or  
26 its successor, for certification of its status as a Community  
27 Development Financial Institution.

28 (2) Apply to the California Organized Investment Network, or  
29 its successor, on behalf of the taxpayer for certification of the  
30 credit amount allocated to the taxpayer prior to accepting any  
31 qualified deposit from the taxpayer.

32 (3) Transmit to the taxpayer and the California Organized  
33 Investment Network, or its successor, certification that a qualified  
34 deposit has been accepted, the amount of the deposit or equity  
35 investment, and the amount of credit to which the taxpayer is  
36 entitled, and retain a copy of the certification.

37 (4) Obtain the taxpayer’s identification number, or in the case  
38 of a partnership, the taxpayer identification numbers of all the  
39 partners for tax administration purposes and provide this

1 information to the California Organized Investment Network, or  
2 its successor, with the transmittal required in paragraph (3).

3 (5) Provide an annual listing to the Franchise Tax Board, in the  
4 form and manner agreed upon by the Franchise Tax Board and the  
5 California Organized Investment Network, or its successor, of the  
6 names and taxpayer identification numbers of any taxpayer who  
7 makes any withdrawal or partial withdrawal of a qualified deposit  
8 before the expiration of 60 months from the date of the qualified  
9 deposit.

10 (d) The California Organized Investment Network, or any  
11 successor thereof, shall do all of the following:

12 (1) Accept applications for certification from financial  
13 institutions and issue certificates that the applicant is a Community  
14 Development Financial Institution qualified to receive qualified  
15 deposits.

16 (2) Accept applications for certification from any Community  
17 Development Financial Institution on behalf of the taxpayer and  
18 issue certificates to taxpayers in an aggregate amount that ~~shall~~  
19 *may* not exceed the limit specified in subdivision (b). The  
20 certificate shall include the amount eligible to be made as a deposit  
21 or equity investment that qualifies for the credit and the total  
22 amount of the credit to which the taxpayer is entitled for the  
23 taxable year. Certificates shall be issued in the order in which the  
24 applications are received.

25 (3) Provide an annual listing to the Franchise Tax Board, in a  
26 form or manner agreed upon by the Franchise Tax Board, of the  
27 taxpayers who were issued certificates, their respective tax  
28 identification numbers, the amount of the qualified deposit made  
29 by each taxpayer, and the total amount of all qualified deposits.

30 (e) For purposes of this section:

31 (1) “Qualified deposit” means a deposit that does not earn  
32 interest, or an equity investment, that is equal to or greater than  
33 fifty thousand dollars (\$50,000) and is made for a minimum  
34 duration of 60 months.

35 (2) “Community development financial institution” means a  
36 private financial institution located in this state that is certified by  
37 the California Organized Investment Network, or its successor,  
38 that has community development *or affordable low-income*  
39 *housing* as its primary mission, and that lends in urban, rural, or  
40 reservation-based communities in this state. A community

development financial institution may include a community development bank, a community development loan fund, a community development credit union, a microenterprise fund, a community development corporation-based lender, and a community development venture fund.

(f) (1) If a qualified deposit is withdrawn before the end of the 60th month and not redeposited or reinvested in another Community Development Financial Institution within 60 days, there shall be added to the “net tax,” as defined in Section 17039, for the taxable year in which the withdrawal occurs, the entire amount of any credit previously allowed under this section.

(2) If a qualified deposit is reduced before the end of the 60th month, but not below fifty thousand dollars (\$50,000), there shall be added to the “net tax,” as defined in Section 17039, for the taxable year in which the reduction occurs, an amount equal to 20 percent of the total reduction for the taxable year.

(g) In the case where the credit allowed by this section exceeds the “net tax,” the excess may be carried over to reduce the “net tax” for the next four taxable years, or until the credit has been exhausted, whichever occurs first.

(h) This section shall remain in effect only until December 1, ~~2002~~ 2005, and as of that date is repealed.

(i) *The amendments made to this section by the act adding this subdivision shall apply only to taxable years beginning on or after January 1, 2001.*

SEC. 3. Section 23657 of the Revenue and Taxation Code is amended to read:

23657. (a) For each taxable year beginning on or after January 1, 1997, and before January 1, 2005, there shall be allowed as a credit against the amount of “tax,” as defined in Section 23036, an amount equal to 20 percent of the amount of each qualified deposit made by a taxpayer during the taxable year into a community development financial institution.

(b) Notwithstanding any other provision of this part, no credit is allowed under this section unless the California Organized Investment Network of the Department of Insurance, or its successor, certifies that the deposit described in subdivision (a) qualifies for the credit under this section and certifies the total amount of the credit allocated to the taxpayer pursuant to this section. The aggregate amount of qualified deposits made by all



1 taxpayers pursuant to this section and Section 17053.57 shall not  
2 exceed ten million dollars (\$10,000,000) for each calendar year.

3 (c) The Community Development Financial Institution shall  
4 do all of the following:

5 (1) Apply to the California Organized Investment Network, or  
6 its successor, for certification of its status as a Community  
7 Development Financial Institution.

8 (2) Apply to the California Organized Investment Network, or  
9 its successor, on behalf of the taxpayer, for certification of the  
10 credit amount allocated to the taxpayer prior to accepting any  
11 qualified deposit from the taxpayer.

12 (3) Transmit to the taxpayer and the California Organized  
13 Investment Network, or its successor, certification that a qualified  
14 deposit has been accepted, amount of the deposit or equity  
15 investment, and the amount of credit to which the taxpayer is  
16 entitled, and retain a copy of the certification.

17 (4) Obtain the taxpayer's identification number, or in the case  
18 of an "S corporation," the taxpayer identification numbers of all  
19 the shareholders for tax administration purposes and provide this  
20 information to the California Organized Investment Network, or  
21 its successor, with the transmittal required in paragraph (3).

22 (5) Provide an annual listing to the Franchise Tax Board, in the  
23 form and manner agreed upon by the Franchise Tax Board and the  
24 California Organized Investment Network, or its successor, of the  
25 names and taxpayer identification numbers of any taxpayer who  
26 makes any withdrawal or partial withdrawal of a qualified deposit  
27 before the expiration of 60 months from the date of the qualified  
28 deposit.

29 (d) The California Organized Investment Network, or any  
30 successor thereof, shall do all of the following:

31 (1) Accept applications for certification from financial  
32 institutions and issue certificates that the applicant is a Community  
33 Development Financial Institution qualified to receive qualified  
34 deposits.

35 (2) Accept applications for certification from any Community  
36 Development Financial Institution on behalf of the taxpayer and  
37 issue certificates to taxpayers in an aggregate amount that may not  
38 exceed the limit specified in subdivision (b). The certificate shall  
39 include the amount eligible to be made as a deposit or equity  
40 investment that qualifies for the credit and the total amount of the



1 credit to which the taxpayer is entitled for the taxable year.  
2 Certificates shall be issued in the order that the applications are  
3 received.

4 (3) Provide an annual listing to the Franchise Tax Board, in the  
5 form or manner agreed upon by the Franchise Tax Board and the  
6 California Organized Investment Network, or its successor, of the  
7 taxpayers who were issued certificates, their respective tax  
8 identification numbers, the amount of the qualified deposit made  
9 by each taxpayer, and the total amount of all qualified deposits.

10 (e) For purposes of this section:

11 (1) "Qualified deposit" means a deposit that does not earn  
12 interest, or an equity investment, that is equal to or greater than  
13 fifty thousand dollars (\$50,000) and is made for a minimum  
14 duration of 60 months.

15 (2) "Community development financial institution" means a  
16 private financial institution located in this state that is certified by  
17 the California Organized Investment Network, or its successor,  
18 that has community development or affordable low-income  
19 housing as its primary mission, and that lends in urban, rural, or  
20 reservation-based communities in this state. A community  
21 development financial institution may include a community  
22 development bank, a community development loan fund, a  
23 community development credit union, a microenterprise fund, a  
24 community development corporation-based lender, and a  
25 community development venture fund.

26 (f) (1) If a qualified deposit is withdrawn before the end of the  
27 60th month and not redeposited or reinvested in another  
28 Community Development Financial Institution within 60 days,  
29 there shall be added to the "tax," as defined in Section 23036, for  
30 the taxable year in which the withdrawal occurs, the entire amount  
31 of any credit previously allowed under this section.

32 (2) If a qualified deposit is reduced before the end of the 60th  
33 month, but not below fifty thousand dollars (\$50,000), there shall  
34 be added to the "tax," as defined in Section 23036, for the taxable  
35 year in which the reduction occurs, an amount equal to 20 percent  
36 of the total reduction for the taxable year.

37 (g) In the case where the credit allowed by this section exceeds  
38 the "tax," the excess may be carried over to reduce the "tax" for  
39 the next four taxable years, or until the credit has been exhausted,  
40 whichever occurs first.

1 (h) This section shall remain in effect only until December 1,  
2 2005, and as of that date is repealed.

3 (i) The amendments made to this section by the act adding this  
4 subdivision shall apply only to taxable years beginning on or after  
5 January 1, 2001.

6 ~~SEC. 3.~~—

7 *SEC. 4.* This act provides for a tax levy within the meaning  
8 of Article IV of the Constitution and shall go into immediate  
9 effect.

